



## **DEPARTMENT OF TRANSPORTATION**

### **Federal Railroad Administration**

**[Docket No. FRA-2023-0002-N-6]**

#### **Proposed Agency Information Collection Activities; Comment Request**

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA will seek approval of the Information Collection Request (ICR) abstracted below. Before submitting this ICR to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified in the ICR.

**DATES:** Interested persons are invited to submit comments on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Written comments and recommendations for the proposed ICR should be submitted on [regulations.gov](https://www.regulations.gov) to the docket, Docket No. FRA-2023-0002. All comments received will be posted without change to the docket, including any personal information provided. Please refer to the assigned OMB control number (2130-0560) in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

**FURTHER INFORMATION CONTACT:** Ms. Arlette Mussington, Information Collection Clearance Officer, at email: [arlette.mussington@dot.gov](mailto:arlette.mussington@dot.gov) or telephone: (571)

609-1285 or Ms. Joanne Swafford, Information Collection Clearance Officer, at email: joanne.swafford@dot.gov or telephone: (757) 897-9908.

**SUPPLEMENTARY INFORMATION:** The PRA, 44 U.S.C. 3501–3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days’ notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. *See* 44 U.S.C. 3506, 3507; 5 CFR 1320.8–1320.12. Specifically, FRA invites interested parties to comment on the following ICR regarding: (1) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA’s estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public, including the use of automated collection techniques or other forms of information technology. *See* 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment may reduce the administrative and paperwork burdens associated with the collection of information that Federal statutes and regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (1) reduce reporting burdens; (2) organize information collection requirements in a “user-friendly” format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

The summary below describes the ICR that FRA will submit for OMB clearance as the PRA requires:

*Title:* Use of Locomotive Horns at Highway-Rail Grade Crossings.

*OMB Control Number:* 2130-0560.

*Abstract:* FRA plans to publish in the *Federal Register* a final administrative rule on its procedures for service of documents in railroad safety enforcement proceedings and other administrative updates. This rule will update FRA's railroad safety enforcement procedures and rules of practice to require electronic service of documents. Specifically, this rule modernizes 49 CFR part 209's provisions and other FRA procedures regarding service to require service through electronic methods of transmission. For example, with respect to updating FRA's rules of practice to require electronic service of documents, this rule will remove the certified mail requirements in 49 CFR part 222 and provide for electronic submission of documents to FRA and other affected parties (such as railroads and State agencies).

This 60-day notice provides the public with the opportunity to comment on the modifications made to eliminate the need for certified mail in sections 222.39, 222.43, 222.47, and 222.51. These adjustments will also decrease the burden hours by 47 hours, reducing the current inventory's 7,254 hours to 7,207 hours in the requesting inventory. Additionally, this rule will reduce the certified mailed cost by \$5,000 annually to the affected parties.

The other provisions under parts 209, 211, 212, 216, 231, 233, 235, 238, and 239 with respect to electronic methods of transmission requirements will not impact the current PRA inventory under multiple OMB control numbers<sup>1</sup> since the affected parties are already submitting their written products electronically to FRA.

*Type of Request:* Revision of a currently approved collection.

*Affected Public:* Businesses.

*Form(s):* N/A.

*Respondent Universe:* 784 railroads/645 public authorities.

---

<sup>1</sup> Covered under multiple OMB Control Numbers, such as, 2130-0006, 2130-0504, 2130-0509, 2130-0544, 2130-0545, and 2130-0594.

*Frequency of Submission:* On occasion.

*Reporting Burden:*

CFR Section	Respondent universe	Total annual responses (A)	Average time per response (B)	Total annual burden hours (C) = A * B	Total cost equivalent (D) = C * wage rate <sup>2</sup>
222.15—How does one obtain a waiver of a provision of this regulation? —Petition for waiver	784 railroads + 645 public Authorities	2 petitions	4 hours	8.00 hours	\$623.28
222.17—How can a State agency become a recognized State agency?	FRA anticipates zero applications, as FRA has yet to receive any submissions under this provision.				
222.39(b)—How is a quiet zone established? —Public authority application to FRA—Applications for quiet zone approval	645 public authorities	15 applications	80 hours	1,200.00 hours	\$75,204.00
—(b)(1)(i) Updated Grade Crossing Inventory Form (includes requirements under § 222.49(a))	645 public authorities	75 updated forms	30 minutes	37.50 hours	\$2,350.13
—(b)(1)(iii) Diagnostic team review of proposed quiet zone crossings	645 public authorities	3 team reviews	16 hours	48.00 hours	\$3,739.68
—(b)(3)(i) 60-day comment period—Copies of quiet zone application <b>(Revised requirement)</b>	645 public authorities	90 copies	1 minute	1.50 hours	\$94.01
—(b)(3)(ii) 60-day comment period—Comments to FRA on Applications for quiet zone approval	784 railroads	30 comments	1.5 hours	45.00 hours	\$3,505.95
—(b)(3)(iii) 60-day comment period—Written no-comment statements	FRA anticipates zero written statements.				
222.43(a)(1)—What notices and other information are required to create or continue a quiet zone? —Written notice of public authority's intent to create new quiet zone and notification to required parties <b>(Revised requirement)</b>	645 public authorities, 784 railroads, and state agencies	60 notices + 180 notifications	40 hours + 1 minute	2,403.00 hours	\$150,596.01
—(b)(3) Notice of Intent – 60-day comment period	784 railroads and state agencies	120 comments	1.5 hours	180.00 hours	\$14,023.80

<sup>2</sup> FRA used the Surface Transportation Board's 2021 Full-Year Wage A&B data series as the basis for each cost calculation. For professional and administrative staff, the hourly wage rate is \$77.91 per hour (\$44.52 \* 1.75). For transportation (train and engine) staff, the hourly wage rate is \$62.67 per hour (\$35.81 \* 1.75).

—(d) Notice of Quiet Zone Establishment—Written notice of quiet zone establishment and notification to required parties	645 public authorities	60 notices + 360 notifications	40 hours + 10 minutes	2,460.00 hours	\$154,168.20
—(d)(2)(ii)(A) Required contents—Public authority to include a copy of the quiet zone calculator web page in its notice of quiet zone establishment			The estimated paperwork burden for this requirement is covered under § 222.43(d).		
—(d)(2)(v)-(vi) Required contents—Updated Grade Crossing Inventory Forms (includes requirements under § 222.49(a))	645 public authorities	300 updated forms	30 minutes	150.00 hours	\$9,400.50
—(d)(2)(xi) Required contents—Certification by chief executive officer that the information submitted by the public authority is accurate	645 public authorities	60 certifications	5 minutes	5.00 hours	\$313.35
222.47—What periodic updates are required?—Written affirmation to FRA that Supplementary or Alternative Safety Measures (SSMs or ASMs) conform to the requirements of Appendices A and B or the terms of the Quiet Zone approval <b>(Revised requirement)</b>	645 public authorities	180 written affirmations + 1,080 copies	30 minutes + 1 minute	108.00 hours	\$6,768.36
—(a)(2) and (b)(2) Updated Grade Crossing Inventory Forms (includes requirements under § 222.49(a))	645 public authorities	900 updated forms	30 minutes	450.00 hours	\$28,201.50
222.51(a)-(b)—Under what conditions will quiet zone status be terminated? —Written commitment to lower the potential risk to the traveling public at the crossings within the quiet zone	645 public Authorities	15 written commitments	5 hours	75.00 hours	\$4,700.25
—(c) Review at FRA's initiative—Comments from interested parties during FRA's review of quiet zone status	645 public authorities, railroads, state agencies, and the general public	2 comments	30 minutes	1.00 hour	\$62.67
—(d) Termination by the public authority—Written notice of quiet zone termination <b>(Revised requirement)</b>	FRA estimates zero public authorities will elect to terminate a quiet zone that they only recently designated or established, and so there will be no need to provide any written notices of termination. Consequently, there is no estimated paperwork burden associated with this requirement.				
—(e) Notification of termination <b>(Revised requirement)</b>	FRA estimates that there will be zero quiet zones terminated under the provisions of this section, and that there will be no need to provide written notifications to relevant parties. Consequently, there is no estimated paperwork burden associated with this requirement.				

222.55(b)—How are new supplementary or alternative safety measures approved? —Request for FRA approval of new SSMs or ASMs for quiet zones	645 public authorities and interested parties	1 letter	30 minutes	.50 hour	\$31.34
—(d) Request for SSM/ASM approval upon completion of demonstration of proposed new SSMs or ASMs	645 public authorities and interested parties	1 letter	30 minutes	.50 hour	\$31.34
222.57(a)—Can parties seek review of the Associate Administrator's actions? —A public authority or other interested party may petition FRA for review of any decision by the Associate Administrator granting or denying an application for approval of a new SSM or ASM under § 222.55 (plus copies to the required parties)	645 public authorities and interested parties	1 petition + 6 copies	2 hours + 2 minutes	2.20 hours	\$137.87
—(b) Request for FRA reconsideration of disapproval of application for Quiet Zone approval and copies of requests to the required parties	645 public authorities	1 petition letter + 6 copies	2 hours + 2 minutes	2.20 hours	\$137.87
—(b) Additional documents submitted to FRA to support petition for reconsideration	645 public authorities	1 additional document and set of materials	2 hours	2.00 hours	\$125.34
—(b) Letter to FRA requesting an informal hearing	645 public authorities	1 letter	30 minutes	.50 hour	\$31.34
222.59(b)—When may a wayside horn be used?—Written notice of use of wayside horn at grade crossing within a quiet zone plus copies of the written notices to the required parties	645 public authorities	5 notices + 30 copies	2.5 hours + 2 minutes	13.50 hours	\$846.05
—(c) Written notice of wayside horn use located outside a quiet zone	645 public authorities + 784 railroads	5 notices + 30 copies	2.5 hours + 2 minutes	13.50 hours	\$846.05
Appendix B to Part 222—Alternative Safety Measures—Non-engineering ASMs—Programmed Enforcement	FRA anticipates zero submissions. Additionally, FRA has yet to receive any submissions under this provision.				
Appendix B to Part 222—Alternative Safety Measures—Non-engineering ASMs—Photo Enforcement	FRA anticipates zero submissions. Additionally, FRA has yet to receive any submissions under this provision.				
229.129(c)(10)—Locomotive horn—Written Reports and Records of Locomotive Horn Testing	The one-time testing requirement under this provision for locomotives built before September 18, 2016 has been fulfilled. However, any estimated burden for testing records will be covered under OMB control number 2130-0004 under 229.23.				

Total	784 railroads + 645 public authorities	3,620 responses	N/A	7,207 hours	\$455,939
-------	--	--------------------	-----	----------------	-----------

*Total Estimated Annual Responses: 3,620.*

*Total Estimated Annual Burden: 7,207 hours.*

*Total Estimated Annual Burden Hour Dollar Cost Equivalent: \$455,939.*

FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information that does not display a currently valid OMB control number.

**Authority:** 44 U.S.C. 3501–3520.

**Brett A. Jortland,**

*Deputy Chief Counsel.*

[FR Doc. 2023-06083 Filed: 3/23/2023 8:45 am; Publication Date: 3/24/2023]